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July 1, 1994

Via Federal Express 9545291582

Bruce E. Beard Attorney

> Mr. William F. Caton **Acting Secretary** Federal Communications Commission 1919 M Street NW, Room 222 Washington, DC 20554



RE: CC Docket No. 92-115; Filing of Reply Comments of Southwestern Bell Mobile Systems, Inc.

Dear Mr. Caton,

Enclosed for filing in the above referenced proceeding are the original and five copies of the Reply Comments of Southwestern Bell Mobile Systems, Inc. Please file these Reply Comments among the papers in this proceeding.

Please return a file-marked copy of the Reply Comments to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance.

Enclosure

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C.

In the Matter of

S CC Dockett No. 92-115

Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services

REPLY COMMENTS OF SOUTHWESTERN BELL MOBILE SYSTEMS, INC.

Southwestern Bell Mobile Systems, Inc. (SBMS), on behalf of itself, its subsidiaries and partnerships, files the following Reply Comments in response to Comments filed pursuant to the Federal Communication Commission's (Commission) Further Notice of Proposed Rulemaking¹ in this proceeding.

The majority of the Comments generally support the changes proposed in Section III of the <u>FNPR</u>, <u>Proposals Affecting Cellular Service</u>. SBMS files this Reply in further support of the Commission's proposals and to comment on various modifications proposed by other parties.

I. The Commission Should Not Mandate the Use of Computer Generated Maps.

NYNEX and GTE propose that the Commission should agree to accept computer generated maps.³ SBMS strongly opposes any Commission mandate that maps must be computer generated. SBMS' opposition to such a mandate is based on the cost it would impose

¹In the Matter of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket 92-115, Further Notice of Proposed Rulemaking (Released May 20, 1994). (FNPR).

²See, e.g. U.S. West, pp. 1-2; GTE, pp. 1-2; AirTouch Communications pp. 1-2; Cellular Telephone Industry Associaton (CTIA), pp. 2-3.

 $^{^{3}}$ NYNEX, p. 4; GTE, p. 3.

on licensees who do not have such capability. Such a mandate would be contrary to the Commission's goal of avoiding the imposition of unnecessary burdens on any applicant. The Commission noted that the advantage of using the 1:500,000 scale maps is that such maps "are readily available from the U.S. Geographical Survey" and thus "revision of the existing rule would not result in additional burdens to any applicant". While SBMS opposes any mandate that maps must be computer generated, it does not oppose any modification that would give licensees the option of filing computer generated maps.

II. Licensing of Inner Cell Sites Should be Eliminated.

The majority of the Commentors support the Commission's proposed elimination of the licensing of internal cell sites. The primary exception is "an ad hoc organization of cellular permitees/licensees, engineering firms, investment bankers and industry consultants self-ordained as the "Committee for Effective Cellular Rules" (CERC). CERC makes the unsubstantiated claim that the elimination of the inner cell site licensing information "will greatly hinder, if not prevent" the enforcement of Commission rules regarding cell site technical, environmental, land-use and operational requirements. Like any regulatory scheme, the

⁴FNPR, para. 6.

⁵**Id**.

⁶See, e.q. Rural Cellular Association, pp. 4-5; GTE p.4; CTIA, p. 4.

⁷CERC, p. 1.

⁸CERC, p. 2.

penalties for noncompliance with Commission rules is what compels licensees to comply with Commission rules. The penalties have not changed. Further, if one assumes that a licensee is going to willingly violate Commission rules one should also assume that the licensee's violation is not going to be stopped by what is on file with the Commission.

CERC's concerns about interference are adequately addressed by GTE's suggestion that licensees should maintain their own records identifying all internal cell sites and associated operating data, comparable to the information required under the rules. As GTE notes, the information should be available upon reasonable and legitimate request by other FCC radio service licensees claiming interference. SBMS supports GTE's suggestion that licensees keep their own records on internal cell sites and associated operating data.

SBMS also agrees with those Commentors who note that the Commission should specifically state that inner cell sites will be afforded interference protection notwithstanding the fact that a filing was not made for such site. Without such assurance of protection it is likely that licensees will feel compelled to file so as to be assured of such protection and thus the Commission's goal of reducing the administrative and processing cost of issuing authorizations will be thwarted. 12

⁹GTE, p. 4-5.

 $^{^{10}}$ GTE, pp. 4-5.

¹¹CTIA, p. 4; AirTouch Communications, p. 3.

¹²<u>FNPR</u>, para. 8.

III. The 60 Day System Information Update (SIU) Requirement Should Not Be Changed Without Corresponding Changes to the Time Line for Filing Applications for Unserved Areas.

U.S. West suggests that the 60 day SIU filing requirement be eliminated and replaced with a requirement that SIU's be filed once, on the five year fill in date. 13 U.S. West claims that the elimination of the 60 day filing requirement would help reduce the administrative and processing costs of filing updated SIUs.14 Section 22.925 of the Commission Rules currently require the 60 day SIU filing to accurately depict the cell locations and coverage of the system at the end of the five year fill-in period. 15 The 60 day SIU filing is thus useful to parties wishing to file applications for unserved areas which must be filed within 31 days after the five year fill in period expires. 16 Thus, while U.S. West correctly notes that the elimination of the 60 day SIU filing diminishes the administrative costs of filing updates, the elimination would greatly burden those who rely on the filing in deciding whether to file an unserved area application and to begin preparation of the Thus, the 60 day SIU filing period should not be eliminated unless the 60 days is added to the window for filing unserved area applications.

¹³U.S. West, pp. 2-5.

¹⁴U.S. West, p. 4-5.

¹⁵⁴⁷ CFR 22.925. (emphasis added)

¹⁶47 CFR 22.924.

IV. Filing Requirements for Incidental Services Should be Eliminated.

SBMS agrees with New Par's suggestion that the filing requirements of Section 22.308 be eliminated. 17 Section 22.308 provides that licensees wishing to provide communication services incidental to those listed in an authorization may do so provided the incidental service does not interfere with the authorized service, the charges to customers who do not wish to subscribe to the incidental service are not increased by the offering, the quality of service does not materially deteriorate and neither growth nor availability of the authorized service is diminished beyond a minimal degree and the provision of the incidental service does not violate any Commission rule, regulation or policy. 18 addition, the licensee is required to file a letter of notification prior to the provision of the service. 19 SBMS supports New Par's suggestion that the filing of the letter of notification requirement should be eliminated from the section because the other provisions provide adequate protection. The notification letter unnecessarily adds to the administrative burden of the Commission and should be eliminated.

V. Other Issues

SBMS supports New Par's suggestion that, for systems that have combined Cellular Geographical Service Areas, information should not be required for those cells which constitute the common

¹⁷New Par, p. 5.

¹⁸47 CFR 22.308.

¹⁹Id.

border.²⁰ In such a case the common border cells are for all practical purposes interior cells and should be treated accordingly. The Commission should clarify that information is not required on the common border cells.

CERC raises the scenario of a licensee discontinuing the operation of an external cell so that an inner cell becomes an external cell site. The Commission should clarify what steps, if any, a licensee should take in such a situation. SBMS would support filing an annual update of any such changes. 22

SBMS also supports CTIA's suggestion that the Commission's rules governing expansion after the 5 year fill in period be streamlined as they relate to de minimus CGSA expansion²³, e.g., modification of a mile or less due to insignificant adjustments to existing cell site equipment.²⁴ SBMS supports CTIA's recommendation that such de minimus changes be addressed through the filing of a FCC Form 489 notification rather than a formal Form 401 filing.

SBMS also supports ALLTEL's request that the FCC and FAA agree on one set of data to be used for tower height and coordinate

²⁰New Par, para. 3-4.

²¹CERC, p. 3.

²²See, e.q., Comp Comm, p. 4.

Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket No. 92-115, Notice of Proposed Rulemaking, 7 FCC Rcd 3658, 3667 (1992).

 $^{^{24}}$ CTIA, pp. 3-4.

verification.²⁵ Currently, licensees are forced to deal with coordinates from two sets of data-NAD83 for the FAA and NAD27 for the Commission. Using a common set of data would help avoid confusion and delay.

VI. Conclusion

The Commission should adopt the changes proposed in the FNPR, with the changes and clarifications noted herein and in SBMS' initial comments.

Respectfully submitted,

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July 5, 1994

²⁵ALLTEL, p. 4.

Certificate of Service

I, Shelley M. Harrison, a secretary in the Legal Department of Southwestern Bell Mobile Systems, Inc., do hereby ceritfy that copies of the foregoing Reply Comments of Southwestern Bell Mobile Systems, Inc. were served on the 1st day of July, 1994, by first class, U.S. mail, postage prepaid, to the following:

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